THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No.1024 OF 2006

Date: 21.08.2006

Between:

The Commissioner and Director of School Education, A.P. Hyderabad and another.

... Petitioners

and

R. Sridevi, Telugu Pandit Gr.II.

...Respondent.

THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No.1024 OF 2006

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard the learned Government Pleader for Services-I and Sri Siva, learned counsel appearing on behalf of Sri K.S.V.Subbarao, learned counsel for the respondent – applicant and at their request the main writ petition itself is taken up for final disposal.

The present writ petition is filed aggrieved by the order in O.A.2529 of 2004 dated 21.10.2005, whereby termination of the services of the respondent-applicant was declared arbitrary and illegal as she had satisfied the first limb of the Rule prescribing the qualification for appointment to the post of Telugu Pandit Grade II, and the O.A. was allowed with all consequential benefits with a further direction that the respondent – applicant be deputed for Telugu Pandit Grade II training.

Facts, in brief, are that in response to DSC 2000 Notification, inviting applications for appointment to the post of Telugu Pandit Grade II, the respondent herein applied for the said post. However, her application was not accepted by the District Educational Officer on the ground that her qualification of a pre-degree course was not equivalent to "oriental title", prescribed as one of the qualifications for appointment to the post of Language Pandit Grade II under G.O.Ms.No.538 dated 20.11.1998. The respondent – applicant approached the Tribunal in O.A.4095 of

2000 and the petitioners herein were directed to receive her application for DSC 2000. The respondent-applicant was permitted to participate in the selection process. The entire batch of O.As, including O.A.4095 of 2000, were dismissed by order dated 20.4.2000. Aggrieved thereby several applicants approached this Court. The respondent filed W.P.25047 of 2000 and the orders of the Tribunal in O.A.4095 of 2000 was set aside by this Court holding that the pre-degree course certificate constitutes "oriental title" which is prescribed as one of the qualifications for the post of Language Pandit Grade II in G.O.Ms.NO.538 dated 20.11.1998, and that candidates holding such a qualification were entitled to be considered for appointment to the post subject to fulfilling all other conditions. Pursuant to the orders of this Court, the District Educational Officer published the result and, as she was otherwise qualified and suitable, the respondent-applicant was appointed on 2.4.2002 as a Telugu Pandit Grade II. Pursuant thereto she joined duty at the Upper Primary School, Gollapalli, Peddapalli, Karimnagar District, initially on a consolidated pay of Rs.1200/- per month, which was subsequently increased to a consolidated pay of Rs.1500/- per month. While matters stood thus the 1st petitioner herein, vide proceedings dated 21.3.2004, while referring to the fact that the general educational qualifications prescribed for appointment as Telugu Pandit Grade II was B.A. with concerned language as one of the optional subjects and that the appointment of the respondent – applicant as Grade II Telugu Pandit was against the rules and was irregular, requested the 2nd petitioner to terminate her services following the rules in vogue and duly giving her opportunity since she did not have the required

general educational qualification to hold the post of Grade II Telugu Pandit. The 2nd petitioner herein issued proceedings dated 3.4.2002 calling upon the respondent – applicant to show cause as to why her services should not be terminated. Aggrieved thereby the respondent-applicant approached the Tribunal and during the pendency of the O.A, since the petitioners herein had passed final orders dated 12.4.2004 terminating her services, she filed M.A.1553 of 2004 seeking amendment of the prayer. The Tribunal, by order dated 13.4.2004, directed maintenance status quo. Subsequently the order dated 12.4.2004 was suspended and the petitioners herein were directed to continue the respondent – applicant in service.

The respondent – applicant belongs to the Scheduled Tribe category. As stated above, she was issued notice dated 3.4.2002, wherein it is alleged that she had obtained appointment as Telugu Pandit Grade II in the Scheduled Tribe quota though she possessed only Pre Degree course certificate without Pandit Training, that in DSC 2000 Scheduled Tribe candidates were given exemption from Training qualification, but no exemption was given in the General Educational qualifications prescribed and that Pre-degree Course certificate was equivalent to Intermediate Course whereas the general educational qualification prescribed for Telugu Pandit Grade II was B.A. with the concerned language as one of the optional subjects. While referring to the instructions of the Commissioner and Director of School Education dated 21.3.2004, the respondent applicant was directed to explain as to why her services should not be terminated as per the C.C.A Rules 1991. On receipt of her explanation dated 8.4.2004, a cryptic order was passed by the District Educational Officer on 12.4.2004 informing

that her explanation was not feasible for consideration and as such her services were being terminated with immediate effect.

Before the Tribunal, the respondent – applicant contended that the qualification prescribed for Language Pandit Grade II was also that the candidate must possess "Oriental Title" and since this Court had held that Oriental Title was equivalent to Pre-degree course, her appointment was legal and in conformity with the notification. The respondent-applicant also stated that she had passed Bachelor of Languages (3 years course) from Kakatiya University during the year 2002, that she was fully qualified to hold the post of Telugu Pandit Gr.II, and that the evidence of her possessing degree qualification was also entered in her service records. She contended that termination of her services was illegal, arbitrary and in violation of Articles 14 and 16 of the Constitution of India.

The petitioners herein contended, before the Tribunal, that the respondent – applicant had misrepresented facts both before the Tribunal and the High Court that she possessed Pre-degree course with Telugu Pandit Training certificates and that the order of the High Court in W.P.No.20949 of 2000 was in respect of persons who had Pre-degree course certificates with Telugu Pandit Training and since the respondent applicant did not have the qualification of Pandit Training Course, her case could not be examined in the light of the orders of the High Court. The petitioners further contended that, while Scheduled Tribe candidates were exempted from possessing training qualifications, no exemption had been granted with regards general educational qualification i.e., B.A. with the concerned language as one of the optional subjects and since, on the date of the notification, the

respondent – applicant, possessed only the qualification of S.C.C and Pre-degree Course, which is equivalent to Intermediate, she did not possess the required qualifications under the Rules and as such termination of her services was valid.

The Tribunal extracted the Rule and, upon taking note of the fact that this Court in W.P.No.20949 of 2000 had held that the Pre-degree course certificate constituted "Oriental Title", that the respondent – applicant had been appointed as a result of the implementation of the orders of this Court and that the respondent – applicant belongs to the Scheduled Tribe, allowed the O.A.

Before us, Learned Government Pleader for Services I would contend that the Pre-degree course qualification, which the respondent – applicant possessed, was merely equivalent to Intermediate whereas the qualification prescribed for appointment as Telugu Pandit Grade II was a B.A. degree with the concerned language as one of the optional subjects. Learned Government Pleader would submit that, in addition to the general educational qualification, a candidate is also required to undergo Pandit Training or to possess a B.A. qualification. However the requirement of possessing a Pandit Training/B.Ed. qualification was exempt in so far as Scheduled Tribe candidates were concerned. According to the Learned Government Pleader, while the respondent – applicant belonged to the Scheduled Tribe, since she did not possess the general educational qualification of B.A. degree, with the concerned languages as one of the optional subjects, when she applied pursuant to the notification, she was not eligible to be considered for appointment and the fact of her acquiring the degree qualification subsequently is of no

consequence.

Sri Siva, learned counsel appearing on behalf of the respondent – applicant, on the other hand, would contend that the Rules in G.O.Ms.No.538, dated 20.11.1998, which prescribe the qualification for appointment to the post of Telugu Pandit Grade II, prescribes the qualification in the alternative, that a candidate may either possess a B.A. degree with the concerned language as one of the optional subjects or Oriental Title in the concerned language. Learned counsel would submit that since this Court had held that a pre-degree course was equivalent to an "Oriental Title", the respondent applicant had the requisite qualification for being appointed as Telugu Pandit Grade II. Learned counsel would submit that the order terminating the services of the respondent is arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution of India.

The "A.P. School Educational Subordinate Service Rules" were notified in G.O.Ms.No.538 dated 20.11.1998. These rules were made applicable to teachers working in the Government and Panchayat Raj Institutions. The A.P. School Education and Subordinate Service consists of several posts. Under Class III Category 3 are the posts of Language Pandits Gr.II including Telugu. The method of appointment of Language Pandits Grade III is by direct recruitment or by transfer. Rule 5 prescribes the qualification and, under clause (a) thereof, no person shall be eligible for appointment for appointment to the categories specified in column (1) of the Annexure appended to the Rules except by the method specified in Column (2) thereof. Under the Annexure to the Rules, for Class I Category (2), the qualification prescribed are as under:-

"Must possess Oriental Title with Pandit Training in the concerned language or candidates with B.A, with concerned language as one of the optional subjects and Pandit Training or its equivalent or B.Ed; may also be appointed".

The General qualification prescribed for appointment as Language Pandit Grade II, is either a Bachelor's degree with the concerned language as one of the optional subjects or possession of Oriental Title with Pandit training or its equivalent or B.Ed. qualification. It is not in dispute that a Scheduled Tribe candidate, to which category the respondent – applicant admittedly belongs, is exempted from possessing the Pandit Training qualification, and that the respondent – applicant, when the notification was issued, did not possess B.A. degree with the concerned language as an optional subjects. It is also not in dispute that the respondent-applicant possessed a pre-degree course certificate.

While the petitioners herein contend that a pre-degree course is equivalent to Intermediate and not that of a Bachelors degree, the respondent-applicant contends that the Pre-degree course which she possessed has been held by this Court to be equivalent to an "Oriental Title" and she therefore possesses the prescribed qualifications.

The Division Bench of this Court, by order dated 13.2.2002, allowed the batch of writ petitions in W.P.20949 of 2000 and batch. The relevant portion of the order of the Division Bench reads thus:

"……We, therefore, hold that Pre-degree Certificate (PDCs) constitute Oriental Title which is prescribed as one of the qualifications for the post of Language Pundit Grade II in G.O.MS.No.538 dated 20.11.1998 and that the petitioners and the other candidates who hold such qualifications shall be entitled to be considered for the appointment to the said posts subject to fulfillment of other conditions and that the proceedings of the Commissioner

and Director of School Education dated 16.7.2000 are without any basis and invalid. We accordingly set aside the orders of the Administrative Tribunal in O.A.No.4073/2000 and batch and other O.As challenged in this batch of writ petitions. The writ petitions are allowed, but in the circumstances, there shall be no order as to costs….."

Since the Division Bench of this Court has held that the Pre-degree course certificate constitutes "Oriental Title", which is prescribed as one of the qualifications, and since it is not in dispute that the respondent – applicant possesses a Pre-degree course certificate, she must be held to possess the qualifications prescribed of an "Oriental Title" and therefore to possess the general qualification prescribed for appointment as Telugu Pandit Grade II.

It is necessary to note that W.P.25047 of 2000, wherein the respondent applicant herein was the 1st petitioner, also formed part of the batch of writ petitions which was allowed by this Court by order dated 13.2.2002. The first petitioner herein was the second respondent in W.P.No.25047 of 2000 and the 2nd petitioner herein was the 4th respondent. The judgment of this Court in W.P.20949 of 2000 and batch, of which W.P.No.25047 of 2000 was a part of, is a judgment inter parties and is binding on the petitioners herein. It was not open for the petitioners herein to sit in judgment over the order of the Division Bench of this Court in W.P.No.25047 of 2000, and to issue orders of termination holding that the respondent applicant did not possess the general qualifications, contrary to what has been held by the Division Bench of this Court, to which they were party respondents. Acting contrary to the orders of Courts or in defiance thereof results in subversion of the judicial process and in negation of the Rule of law. The writ petition, as filed, is an abuse of process of Court.

We consider it appropriate, therefore, to dismiss the writ petition with exemplary costs, quantified at Rs.10,000/-, i.e., Rs.5,000/- payable by each of the petitioners herein to the respondent – applicant.

The writ petition is accordingly dismissed with exemplary costs as indicated above.

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B. PRAKASH RAO, J

Date: .08.2006

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RAMESH RANGANATHAN, J

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